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TOWN ATTORNEY REPORT

DATE: May 30, 2001
FROM: Monroe D. Kiar 
RE: Litigation Update

1. Sunrise Water Acquisition Negotiations: Mr. Stanley Cohen met with Mr. Willi, the Town Attorney, the Town's outside special legal counsel, and individually with the councilmembers to discuss further the progress being made regarding further negotiations with the City of Sunrise.
2. Ordonez, et al v. Town of Davie: Mr. Michael Burke, our outside legal counsel, filed a Motion for Summary Judgment in this case and the Court has ruled upon Mr. Burke's Motion. The Judge granted the Motion for Summary Judgment on behalf of the Mayor and former Chief of Police. The Court also granted in part, the Town's Motion for Summary Judgment and denied it in part. As a result, I am now advised by Mr. Burke's office that a tentative settlement agreement has been reached between the parties and I will be provided with the information of the settlement proposal upon Mr. Burke's return. He has been out of town for a few days.
3. Sessa v. Town of Davie (Forman): The parties have executed a Stipulation Agreement agreeing to binding mediation. The Stipulation was approved by the Court and binding mediation has been tentatively scheduled for September, 2001 before retired judge, Gerald Mager.
4. Coastal Carting Ltd., Inc. v. City of Sunrise, et al: This matter has been settled by the Resource Recovery Board and the Plaintiffs, Waste Management and Coastal Carting Ltd. The Town is to be dismissed as a defendant in this lawsuit and is to receive a Special Limited Release discharging it of any liability as to any of the claims or causes of action raised against the Town in this litigation. In the meantime, another party to this litigation is seeking to intervene in the lawsuit and has filed a Memorandum of Law in Opposition to the Defendants' Joint Motion to Vacate the Court Order of May 5, 1999 which granted the original Plaintiff's Motion for Summary Judgment. Mr. Burke feels that this new

party who is seeking to set aside the settlement in this lawsuit and whose Motion to Vacate remains pending, will not be successful.

5. Seventy-Five East, Inc. and Griffin-Orange North, Inc. v. Town of Davie: A Final Hearing on the Petition for Writ of Certiorari will be conducted sometime during the Court's 4 week trial docket commencing July 30, 2001. Mr. Burke and the undersigned have met with several members of the Town Council individually to discuss further, the status of this case. It is anticipated that it should be the early part of August, 2001 when this matter is tried. It is also anticipated that oral argument on the Motions will take approximately 1/2 day.
6. MVP Properties, Inc.: The United States District Judge, Paul C. Huck, has granted the Town of Davie's Motion for Summary Judgment and has entered a Final Summary Judgment in favor of the Town of Davie and against the Plaintiff, MVP Properties, Inc. In pertinent part, Judge Huck held that the Town's regulations (Ordinance 97-73) concerning the requirements for an entrance gate feature in low density residential developments does not impact any of Plaintiff, MVP's fundamental civil rights, that the general requirement that an entrance gate feature be used in conjunction with a secure perimeter wall is rationally related to furthering a legitimate municipal purpose and that MVP abandoned its request for a gated entrance feature rather than seek Town Council approval to install a gated entrance without construction of a perimeter wall. Plaintiff, MVP has until June 13, 2001 within which to file a Notice of Appeal. Our outside legal counsel, Mr. Michael Burke has indicated that he intends to file a Motion to Tax Costs on behalf of the Town against MVP. Unfortunately, the standard in federal civil rights cases for the recovery of attorney's fees by a prevailing defendant is extremely high and therefore, it is questionable as to whether Mr. Burke will be successful in recovering fees for defending the case.
7. Cummings v. Town of Davie: On Wednesday, April 4, 2001, the Davie Town Council had a closed session to discuss settlement and resolution of the above referenced matter. Then, after the closed session, the Town Council voted to approve one of the two settlement proposals offered by the Plaintiffs. The full terms of the settlement agreement are set forth in a letter from the Town Attorney's Office to Laura N. Camp, Esquire of Brigham Moore law firm. The attorney for the Plaintiff, Laura N. Camp had prepared the initial draft of the Stipulation of Settlement which was reviewed by the Town Attorney's Office. The Town Attorney's Office thereafter, prepared its own draft of the Stipulation which it sent back to Ms. Camp. We are waiting for a response from Ms. Camp.
8. Department of Community Affairs v. Town of Davie: The Stipulated Settlement Agreement presented to the Town Council was signed by the Mayor and approved as to form by the Town Attorney. It was thereafter submitted to the Department of Community Affairs for its execution and thereafter, submitted to the Court which approved same. This matter has been abated pursuant to the Court's Order, to allow the parties to comply with the provisions of the Stipulated Settlement Agreement. An Ordinance was prepared by the Town Staff amending the Code of Ordinances creating Sections 12-32.100 through 12-

32.016 entitled "Community Business Center District". This Land Use Plan Amendment was considered and approved on May 9, 2001 by the Local Planning Agency and thereafter, by the Town Council at its meeting held on May 16, 2001. The Town of Davie Local Planning Agency also met on May 23, 2001 at which time it considered an Ordinance of the Town of Davie, Florida amending the text of the Town of Davie Comprehensive Plan by amending the transportation element to revise the level of service standard for Interstate 595, pursuant to the Settlement Agreement with the Florida Department of Community Affairs (DOAH Case Number 90-1308 GM). This Ordinance provides that the revised level of service measurement allows projects to be approved as long as the traffic generated does not degrade below the LOS D in the peak direction. The revised standard will allow development to occur along the I-595 corridor which does not generate travel in the peak direction.

9. Town of Davie v. Malka: The Town Attorney's office has been in contact with the Code Enforcement Officer, Mr. Daniel Stallone. Mr. Stallone, has indicated that he has recently visited the Malka property, and although they are proceeding in their effort to complete the construction of the exterior of their residence, they are not doing so in a timely manner. Mr. Stallone is attempting to have this matter placed on the June meeting of the Unsafe Structures Board. It is assumed that the Unsafe Structures Board will grant the Malkas an additional 60 days to complete the project and if not, then at the expiration of the final Order, it is believed the Town will be able to take action as permitted by the South Florida Building Code, which include several various available remedies.
10. City of Pompano Beach, Davie, at el v. Florida Department of Agriculture and Consumer Services: The Florida Department of Agriculture has filed an appeal of Judge Fleet's Order in which the Judge ruled in favor of Davie, the County and the other cities enjoining the Florida Department of Agriculture and Consumer Services from further cutting of healthy citrus trees in Broward County. The Florida Department of Agriculture requested, and the Court has granted oral argument to be heard on June 6, 2001. In the interim, the Stay remains in effect with regard to the protection of healthy trees within the 1900 foot radius of an infected citrus tree.
11. Christina Mackenzie Maranon v. Town of Davie: The Town of Davie has filed a Motion for Summary Final Judgment on behalf of the Town of Davie and Police Officer Quentin Taylor seeking to dismiss both parties as defendants in this lawsuit. The Motion for Summary Judgment continues to remain pending. In the meantime, the Court has removed the case from the trial docket pending its ruling on our Motion for Summary Judgment. There is a good likelihood therefore, that even if our Motion for Summary Judgment is not granted, that this lawsuit will not be heard before the end of the year, should it in fact go to trial.
12. Reinfeld v. Town of Davie, at al: The Florida League of Cities has assigned Mr. Michael Burke to represent the Town of Davie in its defense of this lawsuit instituted by the former Town Clerk. The League of Cities has also assigned separate legal counsel to represent the two individual defendants. Mr. Burke has been in close contact with the Town

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Attorney's Office and the Town Attorney's Office is monitoring the progress of this lawsuit. Both Mr. Burke and Mr. Marrero, counsel for the individual defendants, will be filing appropriate responses to the Complaint. Mr. Marrero has filed a Motion to Dismiss the various counts of the lawsuit as it pertains to the individual defendants.